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April 29, 2004

VIA UPS

Ms Sharla Dillion  
Dockets  
Tennessee Regulatory Authority  
400 James Robertson Parkway  
Nashville, TN 37243

Re: Transfer of Control Application of EZ Phone, Inc and Inflexion  
Communications Corp., Docket Number 04-00105

Dear Ms Dillion

Enclosed please find, for filing, one original and thirteen (13) copies of the Parties' responses to the TRA's Data Request #1 in the above captioned case. Please note that Exhibit B, the financial records requested, are being filed under seal, as they contain confidential and proprietary information. Please date stamp the duplicate of this letter and return in the enclosed postage prepaid, self addressed stamped envelope.

Respectfully submitted,

Katherine E Barker

Enclosures

**Before the Tennessee Regulatory Authority**

<b>Application for Approval</b>	)	
<b>of the Transfer of Control of</b>	)	<b>Docket No. 04-00105</b>
<b>EZ Phone, Inc. to</b>	)	
<b>Inflexion Communications Corp.</b>	)	

**Responses to Data Request Number #1**

- 1) Has this petition been filed with other state commissions? If so, please provide the responses.**

This application is in the process of being filed with other state regulatory agencies, pursuant to their rules. No responses to the application have been received as of yet

- 2) How many other states, countries or jurisdictions do EZ Phone and Inflexion offer services in?**

Inflexion currently does not offer services in any state or jurisdiction, however has an application pending to provide service in California. EZ Phone offers service to approximately 2000 customers in eight (8) states.

- 3) Provide the number of customers Inflexion Communications Corp. has in Tennessee and other jurisdictions.**

Inflexion currently has no customers in Tennessee or other jurisdictions.

- 4) Has this petition been filed with the FCC, consistent with CC Docket No. 00-257? If so, please provide a copy of the document, FCC ID, or docket number and the status of this filing.**

This petition is expected to be filed by May 15, 2004, once filings have been made with the appropriate state jurisdictions. A copy can be provided if the TRA so desires it once it is filed.

- 5) Provide the Docket Number and date of the Order in which EZ Phone received its CCN from the Tennessee Regulatory Authority.**

EZ Phone was authorized to provide service in Docket Number 97-1230, issued September 24, 1997.

- 6) **Provide the Tennessee statute, rule, or order that you are filing this petition under and explain how the rule applies.**

The Parties are filing this Application under Tenn Code Ann. § 65-4-113

- 7) **Will the current CCN be transferred to Inflexion Communications Corp. name as a result of the merger?**

No. Inflexion is merely becoming the parent company to EZ Phone. EZ Phone will continue to operate under its CCN.

- 8) **Does Inflexion possess a CCN in Tennessee? If so, please provide the Docket Number and the date of the order.**

No, Inflexion does not possess a CCN in Tennessee. Inflexion is a start up company, which is becoming the parent company to EZ Phone. Inflexion does not intend to offer services itself to the public, but rather have EZ Phone as its operating entity. In addition, it is Inflexion's intention to maintain the current management team at EZ Phone and to continue to offer the same services, prices and terms and conditions to its customers.

- 9) **Provide evidence of public utility management experience of Inflexion Communications Corp. Provide evidence of financial capacity and technical expertise in the public utility and/or telecommunications field.**

#### **TECHNICAL QUALIFICATIONS**

Applicant's operations will be conducted by and under the supervision of its highly-qualified managerial and technical team. Biographies of key Inflexion management personnel are being submitted as *Exhibit A*. These biographies show that Inflexion is well-qualified, from a managerial standpoint to carry out the proposed operations.

Inflexion confirms that, to the best of its knowledge: (i) neither Inflexion, nor any affiliate, officer, director, partner, or owner of more than 10% of Inflexion, or any person acting in that capacity whether or not formally appointed, has been

investigated or sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, and (ii) no affiliate, officer, director, partner, or person owning more than 10% of Inflexion, or anyone acting in such capacity whether or not formally appointed, held one of these positions with a telecommunications carrier that filed for bankruptcy, or has been found either criminally or civilly liable by a court of appropriate jurisdiction for any actions which involved misrepresentations to consumers, or is currently under investigation for similar violations.

### **FINANCIAL ABILITY**

Inflexion's operations, including any deposit requirements, will be financed through equity contributions by Fleet Private Equity, a subsidiary of Fleet Financial Corporation, the 7<sup>th</sup> largest financial corporation in the country. Inflexion has attached a copy of an equity commitment from Fleet Financial Corporation confirming its commitment to extend sufficient funds to enable Inflexion to meet the Commission's minimum financial requirements for facilities-based carriers throughout the period that this application is pending and for the entire first year of operations, including any deposit requirements of underlying carriers. A copy of the consolidated financial statements are attached as *Exhibit B*, filed under seal. The Parties request that these financial statements be granted confidential treatment as neither of the Parties are publicly traded companies. Accordingly, their financial statements are not public information. The Parties respectfully request that their financial statements disclosed in

connection with this Application be filed under seal, solely for the purpose of the TRA's *in camera* review.

**10) Provide an organizational chart before and after the purchase.**

Please see *Exhibit C*.

**11) Was the purchase of EZ Phone by Inflexion Communications Corp.**

**consummated on September 16, 2003 or later? If so what was the date of consummation? Did this happen without Tennessee Regulatory Authority?**

**If so, why?**

The contract to purchase EZ Phone was signed by the parties on September 16, 2003. Full consummation of the purchase has yet to be completed.

Consummation will take place once the transaction is approved by the Tennessee Regulatory Authority and other state and federal regulatory agencies.

## EXHIBIT A

### MANAGEMENT BIOGRAPHIES

#### **Dwayne E. Goldsmith, P.E.**

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Mr Goldsmith is an executive with over 18 years experience in the telecommunications and information industries. Mr Goldsmith has extensive experience in several aspects of management in Fortune 500 and small company business environments. His experience includes strategic planning, marketing, sales, software development, and line operations management. As an executive with Ameritech, Mr Goldsmith served as President of the \$400 million Pay Phone unit, and was a Vice-President on the launch team that designed the business unit that sells services to telecommunications resellers and information providers. He has also operated a systems integration software company, and started several technology businesses in the multimedia software, voice services, and consulting environments. He is versed in operations management, and is a recognized leader in the application of process management, re-engineering, and quality management environments. Listed is a synopsis of the positions held by Mr Goldsmith throughout his career.

##### **CEO, Ntegrity Telecontent Services, Inc. (1/96 – 7/2002)**

Conceived and created a business enterprise to markets telecontent services, including long distance, paging, internet, voice-mail, cellular, and local services to small business customers across the United States. Accomplishments include building the senior management team, interfacing with the investment community, and formulating business and marketing strategy.

##### **President – Pay Phone Services, Ameritech (7/95 – 12/95)**

Managed the \$400 million business unit responsible for the sale and operation of public communication products, including over 260,000 pay telephones, pre-paid cards, and voice verification technology used for home incarceration and remote time keeping. Refocused the mission of the organization - to sell network transactions instead of just pay phones - in order to combat erosion of the market due to cellular growth and network bypass. Managed the unit, which was the most competitively challenged within the corporation, to its highest profitability level and its lowest cost structure. Functions managed within the unit included strategy, marketing, premise sales, telemarketing sales, service center, installation and maintenance, collecting, purchasing and inventory management. This unit included over 1,200 line and staff employees.

##### **Vice President – Information Industry Services, Ameritech (6/93 – 7/95)**

Launched a new business unit dedicated to selling telecommunications services to third party information providers such as telemanagement companies, centrex, paging and cellular resellers, on-line services and internet firms, alarm and CATV companies, and, multimedia software companies. Personally selected and developed a team of over 100 marketing, sales, business development and service professionals, while growing business revenue and profitability by 30% annually. Created business plans and strategic alliances to launch new lines of business in the systems integration and multimedia software areas. Designed and implemented start-up ventures that acquired over 35,000 voice mail services in 45 days. Created the first two Limited Liability Corporations within Ameritech in order to enter the building automation industry and the electric utility automation business.

##### **General Manager – Bell Public Markets, Ameritech Michigan (1/91 – 6/93)**

Managed the \$100 million public phone line of business, maintained and marketed the four million record customer database. Grew revenue in a market previously assumed to be eroding due to competition. Implemented Total Quality Management principals throughout the public organization. A Malcolm Baldrige Senior Examiner recognized the unit as the most well managed organization within Ameritech. Served as co-leader of the corporate planning teams that restructured and launched the Ameritech Small Business Unit.

**Director – Major Account Marketing & Sales, Michigan Bell (6/88 – 1/91)**

Managed a team of 60 professionals responsible for the sale of telecommunications networks to the top ten percent of Ameritech Michigan's business customers, such as General Motors, Chrysler, and The Detroit Medical Center. Exceeded revenue targets by over 42%, and implemented the largest digital network in Ameritech's history. Designed and implemented a \$1.5 million marketing information, decision support, office automation, and electronic bonding system for the organization.

**Director – Management Information Services, Michigan Bell (1/86 – 6/88)**

Managed a team of consultants and computer analysts responsible for the creation of mission critical networks and systems for the marketing, network, finance, and computer operations areas within Ameritech. Responsibilities included system analysis, design, and project management. Completed over 80 system integration projects valued at over \$22 million.

**Business Developer, Syndeco - Detroit Edison Subsidiary (1/85 – 1/86)**

Developed market entry strategies for Detroit Edison to enter the consulting engineering business in order to diversify utility operations. Evaluated new business opportunities for strategic fit within the corporate portfolio, and designed plans to enter two new businesses.

**Corporate Planner, Detroit Edison (12/83 – 1/85)**

Created business strategies for Detroit Edison's entry into the telecommunications business as a provider of long distance and local bypass services. Completed the industry evaluation, developed market entry strategy, and formulated sales tactics for the corporation. Created economic development strategies for the State of Michigan in partnership with several local business development organizations.

**Systems Engineer, Detroit Edison (5/79 – 12/83)**

Designed and created leading edge software systems that modeled high voltage power lines, thermal characteristics of dwellings, and electromagnetic phenomena associated with high voltage power lines. Designed and developed hardware and software for prototype data acquisition systems to monitor and control electrical system components. Managed a team of design engineers on the Fermi II Nuclear Power Plant project.

**Partner, Strategic Information Systems, Incorporated (1982 – 1985)**

Owned and operated a consulting firm for three years. The firm designed computer networks and relational databases that enabled clients to leverage technology for competitive advantage. Created systems in the telecommunications, automotive, accounting, and project management areas.

**Adjunct Professor, Wayne State University (1991 – 1993)**

Served as Professor in the College of Engineering for two years. Instructed graduate and undergraduate students in the areas of reliability, quality and statistics. Published and presented several papers on the implementation of quality systems in service industries.

Mr. Goldsmith received his MBA in Marketing and Computer Information Systems from The University of Michigan, and his BS in Electrical and Computer Engineering from Wayne State University. He has held leadership positions in several academic and professional associations and is a Registered Professional Engineer.

## **Keith Machen, Esq.**

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Mr Machen is an attorney and a business development professional with over ten years experience in the legal and business community. He has extensive experience in the telecommunications industry, including the interactive services, internet, control systems, and information content areas. He is versed in several facets of the regulatory/legal aspects of telecommunications, including MFJ issues, the 1996 Telecommunications Act, technical contract execution, acquisitions, and intellectual property. He has held positions in a boutique legal practice, where he executed several transactions in the information and broadcasting industries. Mr Machen has also served as manager of business development in the Information Industry Services Unit of Ameritech, where he developed several new lines of business. An overview of Mr Machen's follows:

### **Vice President and General Counsel, Ntegrity Telecontent Services, Inc. (3/96 – 7/2003)**

Developed a business plan to enter the telecommunications industry as a bundled service provider, with an emphasis on long distance resale. Personally architected legal strategies to leverage tariffs of partners to facilitate entry into national markets, while protecting the title to customers. Negotiated multiple contracts in preparation for the launch of business via acquisition. Created investment banking relationships to secure funding. Designed contract enforcement strategies to address customer attrition effectively.

### **Manager of Business Development - Information Industry Services (2/95 – 3/96)**

Managed the business development activities for a business unit dedicated to selling telecommunications services to third party information providers such as centrex, paging and cellular resellers, on-line services and internet firms, alarm and CATV companies, and, multimedia software companies. Executed business strategies to enter the multimedia software, energy monitoring, directory publishing, internet content, and resale businesses. During tenure as manager of the business development unit, revenues grew by over 70%. Facilitated business development opportunities for joint ventures with a large electric utility designed to create utility management products and services, including automatic meter reading, competitive pricing, load control, and many other telecommunications enabled services. Advised legal staff in the formulation of strategy to leverage the Telecommunications Act of 1996. Developed an intimate familiarity with legal/regulatory issues, especially incidental long distance and resale areas.

### **Associate - Pugh, Jones & Johnson, P.C. (6/92 – 2/95)**

Served as outside counsel for businesses in many commercial transactions, including over 25 separate transactions for telecommunications companies, e.g. AT&T. Specifically represented AT&T on every commercial lease transaction within a six state region. Also represented start-up broadcasting companies on the acquisition radio station properties. Performed various legal functions in the corporate, and small business environment, including, but not limited to, employment issues, real estate issues, regulatory issues, tax matters, finance transactions, and acquisition planning.

### **Associate – Baker & Hostetler (5/89 – 2/92)**

Practiced within the intellectual property, trademark & copyright, and general litigation areas. Advised clients in the legal enforcement of intellectual property infringement. Closed numerous corporate transactions, and real estate transactions.

### **Financial Analyst – First Capital Financial Corporation (10/84 – 5/86)**

Prepared Securities and Exchange Commission filings, analyzed performance of partnerships. Prepared financial information for clients including tax returns, and periodic financial statements.

Mr Machen holds a BS in Management with a concentration in accounting from Purdue University, and a Jurist Doctorate from the University of Michigan. He is actively involved in his community. He is a former Illinois Medical Center Commission, the largest urban medical center in the world, by Governor Edgar in 1994.



**EXHIBIT B**

**FINANCIAL STATEMENTS**

**CONFIDENTIAL AND PROPRIETARY – FILED UNDER SEAL**

**EXHIBIT C**

**ORGANIZATIONAL CHART**

**PRE - TRANSACTION**



**POST - TRANSACTION**

